

STATEMENT OF STEPHEN P. MARTIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, HOUSE COMMITTEE ON RESOURCES, CONCERNING THE NATIONAL PARK SERVICE ORGANIC ACT AND ITS IMPLEMENTATION THROUGH DAILY PARK MANAGEMENT

DECEMBER 14, 2005

Mr. Chairman, thank you for the opportunity to appear before your subcommittee at this oversight hearing on “The National Park Service Organic Act and Its Implementation Through Daily Park Management.”

Through the Yellowstone and other early park acts, Congress set the course for a rich American legacy. The Organic Act, enacted in 1916, secured this new conservation direction by creating a National Park Service (NPS) and National Park System with a resource protection goal. Clearly, the Organic Act is one of this country’s most important statutory directives addressing the protection of our natural and cultural heritage. It provides a strong sense of purpose and direction to those who manage the parks and to those who love and visit them. Countries around the world have followed this model to protect their own heritage. The National Park System, established by the Organic Act, is often cited as “the best idea America ever had,” and has been described by President Bush in a proclamation for National Parks Week as “America’s gift to the world.” We who have inherited the ideas and the ideals embodied in the Organic Act are indebted to a succession of legislators and Presidents who had the foresight to set aside places of national significance for the enjoyment of everyone. The NPS is proud to carry out the mission entrusted to us by the Organic Act.

The Organic Act directs the NPS to promote and regulate the use of the parks by whatever means and measures conform to the fundamental purpose of the parks. It tells us that this fundamental purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for their enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. The Organic Act was written in the style of the day, yet it embodies a simple and straightforward concept that continues to serve the long-term public interest.

The NPS understands that the future of today's parks depends upon our ability to respond to the interests of tomorrow's park visitors. Fortunately, under the guidance of the Organic Act, the National Park System has remained dynamic through the creation of different types of park areas established for specific purposes. The National Park System now includes 388 units encompassing approximately 83.6 million acres. In addition to 58 national parks, the National Park System includes national recreation areas, national seashores, national lakeshores, national cemeteries, national rivers, national military parks, national historic sites, national parkways, over 3,600 miles of national trails, and several other land designations. Perhaps best known for significant natural wonders like Old Faithful, Mount McKinley, and Half Dome, the National Park System also encompasses a wonderful variety of smaller, but no less splendid, resources like the White Sands of New Mexico, and the Congaree Swamp in South Carolina. The NPS also is charged with the protection of many of our Nation's most important historic and prehistoric resources such as the Mary McLeod Bethune Council House here in Washington D.C., the War in the Pacific National Historical Park on the Island of Guam, and the burial mounds at Hopewell Culture National Historical Park.

The different unit designations have not always been used consistently, but they reflect certain precedents that have been followed by Congress. The title of “national park” has traditionally been reserved for the most spectacular natural areas with a wide variety of natural features.

National monuments are usually established to protect historic or scientific features. Legislation authorizing national preserves, recreation areas, seashores, and lakeshores sometimes allows for a wider range of activities than are carried out in national parks, such as development of privately-held oil and gas rights, grazing, and hunting subject to certain limits. Despite these differences, all units of the National Park System are managed so as to “leave them unimpaired for the enjoyment of future generations.”

The demographics of the United States are rapidly changing. The average park visitor of tomorrow will be much different than the average visitor of yesterday. Advancements in technology and human creativity have resulted in numbers of visitors and modes of recreation that the authors of the Organic Act could never have imagined. Today’s National Park System visitor has many opportunities to enjoy park resources via a wide array of transportation methods including automobiles, horses, canal boats, canoes, mountain bikes, foot travel, roller blades, snowmobiles, tour buses, personal watercraft, cruise ships, and aircraft. To contribute to the physical and mental well-being of our citizens and international visitors, the NPS provides for appropriate recreational opportunities that are consistent with the Organic Act in our parks, employing new technologies and other creative means to ensure that these recreational activities occur safely, with a light environmental footprint and with minimal conflicts with other visitors. Important components in this effort are the many educational and scientific uses of our parks.

These programs provide invaluable benefits to the visiting public, park managers, and the scientific community.

Faced with rapid advancements in technology and ever-evolving recreational interests and socioeconomic and demographic changes, it is fair to question whether a law enacted nearly 90 years ago is still relevant to national park management. We feel absolutely that it is. As we approach the centennial anniversary of the Organic Act, the National Park System continues to thrive by fulfilling the fundamental and time-tested mandate of the Organic Act: to conserve the resources therein and to provide for their enjoyment so as to leave them unimpaired for future enjoyment.

The Organic Act, as amended by the General Authorities Act of 1970 and as supported by other complementary laws such as the Endangered Species Act, the Clean Air Act, and the National Environmental Policy Act, is the foundation upon which nearly all our management decisions are based. That is why Congress and the President have regularly reaffirmed their support for the Organic Act. I appear before you to affirm the Administration's support of the Organic Act.

In 1978, Congress clarified and reaffirmed the Organic Act, through the "Redwood Amendment" to the 1970 General Authorities Act that "The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as...directly and specifically provided by Congress."

Because of the popularity and importance of national parks to the American people, the public has long been engaged in discussions concerning the meaning of various aspects of the Organic Act. These discussions are beneficial for the NPS and are necessary to keep management of the National Park System relevant to our visitors. The discussions often raise the concept of a “dual mandate” of conserving park resources, while at the same time providing for their continued enjoyment in an unimpaired condition. The NPS has interpreted the Organic Act to create a single NPS mission with several components, the key to which is that future generations will be able to enjoy National Park System resources only if we successfully protect them from impairment. We think this makes good sense.

In 1925, Stephen T. Mather, the first Director of the NPS, agreed by saying, “The primary duty of the National Park Service is to protect the national parks and national monuments under its jurisdiction and keep them as nearly in their natural state as this can be done in view of the fact that access to them must be provided in order that they may be used and enjoyed.” This statement of Mather’s recognizes that it is of tremendous importance to allow appropriate access to the parks, but it is of utmost importance to protect them. By managing park resources wisely, by evolving and adapting our policies to keep the parks relevant to the public we serve, we ensure that future generations will have the same opportunities for enjoyment of park resources in as good or better condition than today.

NPS managers face continuing challenges as we protect the parks while striving to serve our visitors and partner with our local communities. Every day, without fail, we are tested when we

make decisions on what to do or what not to do; what to build or what not to build; what to allow or what not to allow. Within the parameters of the Organic Act's "fundamental purpose," NPS has considerable decision-making authority in balancing resource protection and visitor enjoyment and in determining where, when, and what activities should be permitted or prohibited in park areas. The courts have long recognized that the Organic Act confers on the NPS broad discretion to manage the National Park System and have left to its expertise the determination of the best approach to achieving the Organic Act's mandate. Once a law is enacted, the responsibility for interpreting and implementing it is delegated to the Executive Branch. In carrying out this function, the NPS, like other Federal agencies, develops regulations and policies to provide direction and guidance to park staff and the public.

The ability of an agency to remain healthy and sustainable over time often lies with its willingness to honestly examine its own management practices and update them to more efficiently and effectively fulfill its underlying mission. The NPS utilizes a hierarchy of guidance documents to interpret laws and to guide managers in the execution of their duties, consisting primarily of the Management Policies, the Director's Orders, handbooks, and reference manuals. This system of directives allows the agency to continually update information on NPS policy and other recommended actions and leads to more effective park management.

From time to time, the NPS has revised its overall management guidance consistent with the Service's fundamental mission and all applicable laws and regulations. The NPS is now involved in such an exercise. The draft proposal to revise the Management Policies (draft policies), now available for public and employee review, specifically recognizes such new challenges facing the

NPS as border security, fiscal restraints, sustainability of programs, urban encroachment, and the importance of parks to local communities. The draft policies also update existing guidance with new laws such as those related to fees; new Executive Orders such as “Preserve America” and “Facilitating Cooperative Conservation”; and new initiatives such as the “NPS Legacy Initiative: Doing Business in the 21st Century” and the Secretary of the Interior’s “4C’s of communication, cooperation, and consultation, all in the service of conservation.”

The purpose of the Management Policies is to provide day-to-day guidance for park management decisions. For that reason, it is of paramount importance that the Management Policies provide clear and usable guidance that encourages consistency across the National Park System while celebrating the unique aspects of individual park units. The Management Policies, however, are not the same as laws and regulations and when appropriate, are waived by the Director.

The draft policies adhere to several basic premises: comply with all current laws, regulations, and Executive Orders; prevent impairment as it remains a key tenet of park management; ensure the responsibility for key authorities and decision-making remains with NPS; emphasize greater consultation and cooperation with local, state and Federal entities as well as the public; encourage consistency, as appropriate, across the National Park System --“one” National Park System; and ensure that the NPS’s commitment to providing for enjoyment of park resources and values as well as protecting resources and values is clear.

The draft policies continue to apply the conservation mandate that has long been at the heart of the NPS’s interpretation of the Organic Act. When a conflict arises between conserving park

resources and values and providing for their enjoyment, the process for determining what are appropriate uses and the mandate that unacceptable impacts not be allowed ensures that protection of park resources is maintained. The draft policies contain detailed definitions and processes which enable park managers to more readily determine how resources can best be conserved while providing a positive visitor experience. There is no change in the fundamental policies underlying the Organic Act, but an improved way to ensure that its objectives are, in fact, achieved. Thus, conservation is predominant.

We would like to emphasize that the proposed policies are in draft and are undergoing a lengthy and deliberate review. NPS field professionals, NPS policy staff, NPS leadership, and the Department will carefully review all comments prior to finalization of the policies. In order to ensure the broadest possible opportunity for comment, the draft policies have been widely circulated on all available media and for an unprecedented 120-day comment period.

We have been asked “Why are you revising the policies now?” The answer is simple—it is about excellence. The world is changing, and we continue to strive for excellence. Excellence means improving our guidance of not only preventing impairment but on preventing “unacceptable impacts”. Excellence means increasing the understanding of “appropriate use” and making sure that this part of the mission is not overlooked. Excellence means keeping the key management decisions in the hands of the managers by better defining “professional judgment.” Excellence means not managing our parks in isolation, but working with others and engaging the public in the conservation of the resources.

In the draft policies, managers are given guidance on the NPS decision-making procedures. This includes engaging the public and using the best scientific information available when parks are planning for facilities or activities. This concept is further clarified by setting forth a list of criteria that park managers must apply, using their professional judgment, to determine what uses are appropriate in a particular park. Such criteria include, among others, ensuring that uses do not cause unacceptable impacts, create an unsafe or unhealthful environment for visitors or employees, or result in significant conflict with other appropriate uses. For example, in applying these criteria, a park manager may determine initially that a proposed activity would “result in significant conflict with other appropriate uses” and may therefore not be allowed. However, by applying a more sophisticated planning process, the manager may find that with even only small adjustments in the time, conduct, or location of activities, potential conflicts can be adequately mitigated or even avoided. The draft policies encourage this kind of forward-thinking, problem-solving management.

Improved policies are also needed because we face continuing challenges in managing an array of wonderfully diverse areas. Areas within the National Park System range from Langston Golf Course in Washington D.C. to the 8.5 million acres of Gates of the Arctic in Alaska. To ensure sound decision-making throughout such a diverse National Park System, we need a detailed process that can address, for example, buildings at Martin Luther King National Historic Site as well as wildlife in Yellowstone National Park. We do not want to create a simple litmus test or bumper sticker phrase that lacks practical application to on-the-ground managers.

Of primary importance in this regard is the standard of impairment. The impairment standard comes from the most important statutory directives for the NPS, the Organic Act of 1916 and the General Authorities of 1970, as amended. The draft policies rectify an apparent inconsistency in the definition of impairment between the glossary and chapter one of the 2001 Management Policies (2001 policies). The draft policies also provide greater clarity and new guidance that not only protect park resources and values from impairment, but also leave them in as good or better condition than they currently exist. They further describe the manager's responsibility to incorporate civic engagement, and the best available scientific, scholarly, and technical information to ensure that parks are managed for appropriate use and to prevent impacts from ever reaching the level of impairment. To this end, unacceptable impacts as defined in the document delineate a higher standard of protection for the parks; a standard that is higher than just preventing impairment, but consistent with the expectations of Americans.

In addition to improving the internal processes used by park managers, the draft policies recognize the benefits of external relationships, particularly in regard to partnerships and other collaborative activities, for implementing long-term, sustainable solutions to park management issues. The NPS commitment to civic engagement is founded on the central principle that preservation of the nation's heritage resources - both cultural and natural - relies on opportunities to enjoy parks and continued collaborative relationships between the NPS and American society. The draft policies reflect a renewed commitment to civic engagement, and collaboration with states, communities, tribes, and the public through effective consultation, participation, and the use of science in key decision-making processes. The draft policies incorporate the guidance

published in NPS Director's Order #75A: Civic Engagement and are included to further strengthen the NPS commitment to effective public involvement.

National park units conserve many of our national treasures, and it is these unique settings that draw millions of visitors to these special places. One result of this high demand is that, at times, the NPS must make decisions that are not popular with every group and every individual.

Simply put, the national parks cannot accommodate everyone's wants and needs. However, we have nearly 300 million satisfied customers each year, which tells us that our decisions work well, not just for parks and park managers, but for the American people and other visitors. The NPS will work hard to maintain this high level of customer satisfaction. In addition, our partnerships with other federal land management agencies, states, localities, tribes, and the private sector also provide a wide array of opportunities for the public to enjoy activities that cannot be accommodated in the National Park System. The NPS is committed to working closely with these partners in a coordinated effort to meet the nation's needs for healthful and enjoyable recreational opportunities. The draft policies incorporate forward-thinking, Servicewide initiatives to ensure the continued fulfillment of the mission entrusted to us in the Organic Act and through subsequent laws.

In 1918, the very first management policies said, "First that National Parks must be maintained in absolutely unimpaired form for the use of future generations as well as those of our own time; second, that they are set apart for the use, observation, health, and pleasure of the people; and third, that the national interest must dictate all decisions affecting public or private enterprise in the parks."

The men and women who manage our parks are some of the best and most committed in government. We demand a great deal from them, and they deserve clear guidance. The courts have recognized that the Organic Act gives us broad discretion to manage the National Park System and have depended on our expertise to achieve the Organic Act's mandate.

In summary, the Organic Act continues to be the foundation for all of our management actions. It has had a profound impact on park management because it consistently fosters quality in the way we manage the smallest to the largest units of the National Park System. The Organic Act, as interpreted by NPS Management Policies and Director's Orders, sets a high standard that often challenges our managers, and we are confident that the NPS can and will meet these challenges, for the benefit of present and future generations.

That concludes my statement, and I will be happy to answer any questions you or other members of the subcommittee may have.